

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS AUSTIN
DIVISION

ERIC CERVINI, <i>et al.</i> ,	§	
	§	
Plaintiffs,	§	Civil Action
v.	§	
	§	No. 1:21-CV-565-RP
ELIAZAR CISNEROS, <i>et al.</i> ,	§	
	§	
Defendants.	§	

**ELIAZAR CISNEROS’ RESPONSE TO
COLIN MCLAREN’S MOTION TO QUASH SUBPOENA¹**

Mr. Colin McLaren was properly served with a trial subpoena at his apparent residence in Washington D.C. While Mr. McLaren apparently resides in WashingtonD.C, he is still within range for a trial subpoena if he “is employed, or regularly transacts business in person” within 100 miles of the courthouse. Fed. R. Civ. P. 45(c)(1)(A). Although Mr. McLaren did not filed a lawsuit in this judicial district his presence is required from personal business he transacted in this district, namely, accompanying the Biden-Harris campaign bus in October 2020 in his own or a rented vehicle (or one belonging to a family member), including, within a few miles of this very courthouse.

¹ As an initial matter, the Defendant Eliazar Cisneros respectfully request that the Court consider this response as timely filed. Counsel has been engaged in preparing and uploading trial exhibits, as well as meeting the deadline yesterday evening for objections to Magistrate Hightower’s jury selection plan.

Mr. McLaren's motion to quash is verified and is not supported by a declaration signed by him. It contains only his conclusory statement that he is not within subpoena range, but does not purport to describe the extent to which Mr. McLaren transacts business in Texas. The docket also reflects that he transacts business in Texas in person, when he traveled to Texas with a bus and he was the Driver of a White Vehicle that crashed into Defendant Eliazar Cisneros' vehicle on October 30, 2020. Given this instances of personal business in Texas, a his burden of establishing that he is outside the range. *See Mathis v. Sw. Corr., LLC*, No. 5:20CV146-RWS-JBB, 2023 WL 11819343, at *3 (E.D. Tex. Feb. 27, 2023) (LaSalle Defendants have not met their burden of establishing that the trial subpoena does not comply with Rule 45.).

Nonetheless, Eliazar Cisneros suggests that a decision on McLaren's motion be stayed pending a determination of whether his testimony may be necessary. Eliazar Cisneros wishes to be able to call McLaren if necessary to authenticate certain documents, for example, communications between him and other Plaintiffs during or about the incident. Although Plaintiffs issued the subpoena to McLaren, Cisneros anticipate that McLaren's testimony is necessary, because the of his role in causing a vehicular accident with Eliazar Cisneros that Plaintiffs allege was caused otherwise. Eliazar Cisneros wishes to be able to call McLaren, whether in person or by remote video link if approved by the Court, for these purposes.

Dated: September 5, 2024

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on September 5, 2024, the foregoing document, and any accompanying exhibits and proposed order, was served by CM/ECF as follows upon all counsel of record.

/s/ Francisco R. Cansecco
Francisco R. Canseco